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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 9, 12, 42, and 52

[Correction; FAC 2005-55; FAR Case 2010-016; Item V; Docket 2010-0016, Sequence 1]

RIN 9000-AL94

Federal Acquisition Regulation; Public Access to the Federal Awardee Performance and Integrity Information System; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Correction.

SUMMARY: This document contains a correction to the final rule that was published in the Federal Register at 77 FR 197 on January 3, 2012. An applicability date to the rule was inadvertently omitted.

DATES: The effective date for the rule published at 77 FR 197 remains January 3, 2012.

Applicability Date: The clause prescription of this rule applies to solicitations issued on or after January 17, 2012, and resultant contracts.

With regard to information entered by the Government into FAPIIS on and after January 17, 2012—

(1) There will be a 14-calendar-day delay in the posting to the publicly available segment of FAPIIS; and

(2) The notification generated when the Government posts new information to the contractor's record will inform the contractor of the 14-calendar-day delay and the contractor's right to request withdrawal of the posted information if the contractor asserts that the information is covered by a disclosure exemption under the Freedom of Information Act, as set forth in FAR 9.105-2(b)(2)(iv).

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at (202) 501-0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-55, FAR Case 2010-016; Correction.

SUPPLEMENTARY INFORMATION:

This document contains a correction to the final rule that was published in the Federal Register at 77 FR 197 on January 3, 2012, by adding an applicability date to the rule that was inadvertently omitted.

DoD, GSA, and NASA adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement section 3010 of the Supplemental Appropriations Act, 2010. Section 3010 requires that the information in the Federal Awardee Performance and Integrity

Information System (FAPIIS), excluding past performance reviews, shall be made publicly available. The interim rule notified contractors of this new statutory requirement for public access to FAPIIS.

The delayed application of the final rule will allow time for the Government to complete necessary system changes to support the 14-day wait period. The current system was designed to automatically transfer to the publicly available segment of FAPIIS all information posted by the Government (other than past performance information). As a result, until the change is implemented, there will not be an opportunity for a contractor to request withholding of the information before it is posted to the publicly available segment of FAPIIS. Any information entered into FAPIIS by the Government on or after January 17, 2012 (other than past performance information, which will not transfer to the publicly available segment of FAPIIS), will be subject to a 14-calendar-day delay before it is transferred to the publicly available segment of FAPIIS, regardless of whether the contract includes the January 2012 version or the January 2011 version of FAR 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters. This will allow all contractors opportunity to assert for the Government's consideration, within 7 calendar days of

being posted, that the information is covered by a
disclosure exemption under the Freedom of Information Act.

Dated: January 5, 2012.

Laura Auletta,
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